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GA/13:GGD-88-45BR

United States General Accounting Office

GAO

COMPLETED

Briefing Report to the Chairman, Subcommittee on Human Resources, Committee on Education and Labor, House of Representatives

April 1988

JUVENILE JUSTICE

Grant to the National Partnership to Prevent Drug and Alcohol Abuse

GAO/GGD-88-45BR

ORIGINAL

GAO

United States
General Accounting Office
Washington, D.C. 20548

General Government Division

B-230395

April 6, 1988

The Honorable Dale E. Kildee
Chairman, Subcommittee on Human
Resources
Committee on Education and Labor
House of Representatives

Dear Mr. Chairman:

On September 18, 1986, you asked us to review a grant awarded to the National Partnership to Prevent Drug and Alcohol Abuse by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP). Generally, you asked us to provide information on (1) the legality of the establishment of the Partnership and the grant award, (2) the grantee's use of the funds, and (3) OJJDP's management of the award. OJJDP terminated the grant on July 31, 1986, after about $1.3 million had been spent.

On January 13, 1988, we briefed the Subcommittee on the results of our work. This report, prepared at the Subcommittee's request, presents information concerning OJJDP's grant award to the Partnership.

RESULTS IN BRIEF

The grant was not effectively managed and many of the grant's objectives were not met. OJJDP's former Deputy Administrator was closely involved with the formation of the Partnership. For example, he participated in interviews for selecting Partnership officials and was a member of a committee formed to develop the Partnership's organizational structure. Also, federal funds were used to provide assistance for the Partnership's formation. Further, at the direction of OJJDP's former Administrator, the grant award deviated from OJJDP's internal policy for awarding noncompetitive grants. After looking into these matters, we have no basis to conclude that any laws were violated.

BACKGROUND

In 1974 Congress found that juveniles accounted for almost half of the arrests for serious crimes in the United States. In addition, it found that the juvenile courts were overcrowded, understaffed, ill-equipped, and unable to provide effective help for juveniles. As a result of these and other findings, Congress passed the Juvenile Justice and

Delinquency Prevention Act of 1974. The main purpose of the act is to provide a comprehensive, coordinated approach for preventing and reducing juvenile delinquency. OJJDP was established as part of this act.

OJJDP is located within the Department of Justice's Office of Justice Programs (OJP) and is headed by an Administrator and a Deputy Administrator. The Administrator is nominated by the President of the United States by and with the advice and consent of the Senate and the Deputy Administrator is appointed by the Attorney General. To carry out the provisions of the act, the Administrator has the authority to award grants to public and private nonprofit agencies, organizations, institutions, or individuals.

ESTABLISHMENT OF THE NATIONAL PARTNERSHIP

From October 1984 to January 1985, OJJDP held a series of workshops with groups from the media, business and professional fields, and the general public in an effort to find solutions and generate programs to effectively deal with drug and alcohol abuse among youths. OJJDP's Deputy Administrator was the prime advocate behind these efforts. A national meeting was held in January 1985 where these various groups met and formally endorsed the concept of the National Partnership to Prevent Drug and Alcohol Abuse. The Partnership was subsequently established as a nonprofit organization to develop a national strategy for addressing the problems with drug and alcohol abuse among juveniles. At this national meeting, a steering committee, comprised of representatives from these various groups and OJJDP's Deputy Administrator, was established to help explore options for organizing the Partnership.

Over the next several months, the Partnership began the process of formally establishing itself. The steering committee met and agreed on draft Partnership bylaws, which included the Partnership's organizational structure. These bylaws were developed by a subcommittee of the steering committee. (OJJDP's Deputy Administrator was not a member of this subcommittee.) The National Executive Service Corps (a personnel recruiting firm) was hired to recruit senior executives and Board of Trustees members. In addition, the Partnership's articles of incorporation were filed. A consultant was hired to prepare an application proposal for a federal grant from OJJDP.

The Partnership's organizational structure was to consist of a board of trustees selected from among media, citizens, professional and business groups, and public officials. In

addition, the Partnership was to have a chairman of the board, a president, and four vice presidents. The Partnership's goal of developing effective strategies to prevent drug and alcohol abuse among youth was to be accomplished through several objectives, including recruiting an influential board of trustees, establishing partnerships at the state and local levels, and raising funds from the private sector.

LEGAL QUESTION RAISED CONCERNING OJJDP AND THE PARTNERSHIP'S ESTABLISHMENT

During hearings in September 1986, your Subcommittee questioned the legality of OJJDP's involvement in establishing the Partnership without having obtained statutory authority. Federal law (31 U.S.C. 9102) prohibits a federal agency from establishing a corporation to act as an agency without specific statutory authorization. OJJDP's current Administrator testified at these hearings that, based on advice given by the OJP's General Counsel, OJJDP had not violated the law. The Office of General Counsel concluded that federal funds were used for technical assistance and the former Deputy Administrator did not impermissibly direct the formation of the Partnership. According to officials of OJP's Office of General Counsel, while some of his actions may have given the appearance of wrongdoing, no violation of 31 U.S.C. 9102 actually occurred. In their opinion, these actions did not constitute the establishment of a corporation acting as an agency of the federal government. Based on our review of the law, agency documentation, and interviews with appropriate officials, we agree with this conclusion.

THE GRANT AWARD

In September 1985, the Partnership submitted an application to OJJDP for a grant award. After receiving the application, OJJDP officials started formal procedures to make a noncompetitive award. According to OJJDP's internal policy, in order for a grant to be awarded noncompetitively, a panel of persons with expertise in the subject must review the grant application in accordance with its Peer Review Manual. The manual was not formally adopted until May 15, 1986, but OJJDP had decided to follow its provisions in awarding grants, including the Partnership's grant whose application was reviewed on October 8 and 9, 1985. However, OJJDP's former Administrator modified the procedures outlined in the manual. OJP's Office of General Counsel officials said that the former Administrator modified the procedures because a White House ceremony announcing the grant was scheduled for October 10, 1985, and one of the panel members had given the

application a rating lower than that needed for approval. OJP's Office of General Counsel officials also said that they advised the former Administrator that since the manual was still in draft form it was not legally binding, but modifying the procedures was not consistent with the spirit of the peer review guidance. The modified review included only a qualitative evaluation of the program's concept rather than both a qualitative and quantitative evaluation. On October 10, 1985, OJJDP noncompetitively awarded a $1 million grant to the Partnership to develop and disseminate effective strategies for the prevention of alcohol and drug abuse among youths. The grant period was made retroactive to August 1, 1985, and ran through January 31, 1987.

PROBLEMS ASSOCIATED WITH THE GRANT

Throughout the life of the grant, OJJDP officials became aware of various problems encountered by the Partnership. For example, Justice's Office of Professional Responsibility received a complaint about OJJDP's Deputy Administrator, and OJJDP learned during routine site visits that possible financial and management improprieties may have occurred.

In December 1985, a Partnership official contacted Justice's Office of Professional Responsibility complaining about OJJDP's Deputy Administrator's involvement in the management of the Partnership and the Deputy's lobbying activities to become president of the Partnership. This matter was turned over to the Public Integrity Section of Justice's Criminal Division as a possible criminal violation of a conflict of interest statute (18 U.S.C. 208). From January through June 1986, Public Integrity Section officials investigated the Deputy Administrator's activities. On the basis of this investigation, they concluded that there was insufficient evidence to determine if the Deputy Administrator had violated the statute.

From December 1985 to June 1986, OJP and OJJDP officials made periodic site visits to the Partnership to provide technical assistance and make program reviews. During a site visit in February 1986, OJJDP learned that 7 months into the grant period, 48 percent of the grant funds had been obligated or expended but little progress appeared to have been made toward meeting program objectives. According to OJJDP, no products had been developed nor had activities occurred to document that the program was meeting its objectives and performing in an acceptable manner. As a result, OJJDP imposed a freeze on the Partnership's grant expenditures, except for salaries, in an effort to use the remaining

resources for the completion and implementation of a detailed action plan, which was a condition of the award.

Because of continuing financial and managerial problems with the Partnership, OJP and OJJDP did financial and programmatic reviews of the program in May and June 1986. According to OJP's and OJJDP's assessment, many of the program's objectives had not been met. Their financial review also revealed financial improprieties, including a personal loan to an employee, the use of grant funds for entertainment, and the use of Partnership-issued credit cards for nonbusiness-related purposes. Following these reviews, OJJDP decided to end the grant program.

Effective July 31, 1986, the grant was terminated. At that time, about $950,000 of the $1 million awarded had been spent. In addition, nearly another $350,000 had been spent for the Partnership through the Aspen Systems Corporation contract--a separate contract used to provide technical assistance to OJJDP and its grantees.

OJJDP'S MANAGEMENT ASSESSMENT OF THE PARTNERSHIP GRANT

At the conclusion of the grant, OJJDP and OJP evaluated the program to determine why the Partnership failed. OJP and OJJDP concluded that the "major" problem contributing to the program's failure was a lack of "effective" leadership within both OJJDP and the Partnership. According to this assessment, closer oversight of the project was needed at critical times, for example, during the first 6 months of the grant period. OJP and OJJDP officials said that closer oversight probably should have been provided because the Partnership was a new entity and lacked experience in federal assistance procedures, rules, and regulations.

In addition, OJP, OJJDP, and Partnership officials said that the Partnership also experienced management problems. For example, throughout the life of the program, several senior staff and Board of Trustee members resigned and a permanent chairman of the board was never appointed.

OJP and OJJDP further concluded that although the program failed, the program's concept--combining, coordinating, and concentrating diverse public and private resources toward the accomplishment of a single goal--was basically sound and was not a contributing factor to the failure.

Our work was done at Department of Justice's offices, including OJJDP and OJP in Washington, D.C. We interviewed

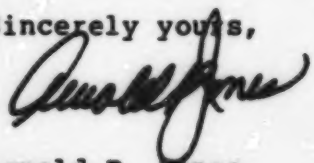
current and former agency and Partnership officials. We also reviewed applicable laws, policies, regulations, and agency documents and records pertaining to the Partnership's grant. Details about our objectives, scope, and methodology, and the awarding, managing, and funding of the grant are included in appendix I. A chronology of events surrounding the grant is included in appendix II.

As the Subcommittee requested, we did not obtain official agency comments on this report. However, we discussed the information obtained with OJP and OJJDP officials, the former Administrator and former Deputy Administrator of OJJDP, and the interim chairman of the Partnership. We incorporated their comments where appropriate in the final product. OJP, OJJDP, and Partnership officials generally agreed with the facts presented, though OJP and OJJDP officials disagreed with some of the statements made by OJJDP's former Administrator and former Deputy. The former Administrator and former Deputy disagreed with some of the information provided by OJP and OJJDP officials.

As arranged with the Subcommittee, unless you publicly announce its contents earlier, we will make copies of this document available to interested parties upon request 30 days after you receive it.

If you have any questions concerning this document, please contact me on 275-8389.

Sincerely yours,



Arnold P. Jones
Senior Associate Director

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ABBREVIATIONS

ADP	Automatic Data Processing
LEAA	Law Enforcement Assistance Administration
NESC	National Executive Service Corps
OJJDP	Office of Juvenile Justice and Delinquency Prevention
OJP	Office of Justice Programs

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION GRANT TO THE NATIONAL PARTNERSHIP TO PREVENT DRUG AND ALCOHOL ABUSE

OBJECTIVES, SCOPE, AND METHODOLOGY

In a letter dated September 18, 1986, the Chairman of the Subcommittee on Human Resources, House Committee on Education and Labor, asked us to review the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) grant award to the National Partnership to Prevent Drug and Alcohol Abuse. The request specifically asked us to provide information concerning the following:

-- the legality of OJJDP's involvement with the establishment of the Partnership;

-- the consistency of the grant award with applicable laws, policies, and regulations;

-- the amount expended by the grantee;

-- the consistency of the expenditure of funds with applicable federal regulations;

-- the achievement of grant objectives;

-- OJJDP's management of the grant;

-- the use of the Aspen Systems Corporation for the Partnership; and

-- investigations of OJJDP officials' conduct in relation to the Partnership.

We did our work at OJJDP and Justice's Office of Justice Programs (OJP), Office of Professional Responsibility, and Criminal Division's Public Integrity Section in Washington, D.C. Our work was done from December 1986 to November 1987 in accordance with generally accepted government auditing standards.

To obtain information on the legality of the establishment of the Partnership, we reviewed applicable laws and regulations, including 31 U.S.C. 9102 and prior written guidance provided by OJP's Office of General Counsel. We also reviewed OJJDP records concerning the grant awarded to the Partnership, including correspondence between the Partnership and OJJDP. In addition, we interviewed agency officials concerning OJJDP's actions,

including officials in OJP's Office of General Counsel, OJP's Office of Comptroller, Justice's Office of Professional Responsibility, and Justice's Criminal Division's Public Integrity Section. We also interviewed officials from the Partnership and the National Executive Service Corps, which was the personnel recruiting firm used by the Partnership. We then analyzed the data gathered from these sources to determine if a violation of the law had occurred.

To obtain information on the consistency of the grant award with applicable laws, policies, and regulations, we reviewed OJJDP's enabling legislation, its Peer Review Manual, the review panel's evaluations of the grant application, and other agency records pertaining to the grant award. We also interviewed OJJDP's program manager for the grant.

To obtain information on the amount of grant funds expended and the consistency of the expenditures with federal regulations, we reviewed federal guidance governing the use of grant funds, financial records of the Partnership, and OJJDP records pertaining to Partnership expenditures. We also interviewed officials in OJJDP and OJP's Office of the Comptroller.

To determine the achievement of grant objectives by the Partnership, we reviewed the Partnership's grant application and implementation plan, as well as a summary of OJJDP's June 13, 1986, programmatic review of the grant.

We obtained information on OJJDP's management of the grant by reviewing agency records documenting site visits and assistance provided to the Partnership, correspondence from the Partnership about OJJDP's management, and OJJDP's evaluation of its management of the grant. We also interviewed officials at OJJDP.

Information concerning the use of Aspen Systems Corporation was obtained through a review of the Aspen Systems contract, task orders issued under this contract, and interviews with officials in OJP's contracting office.

We gathered information concerning the investigation of OJJDP's former Deputy Administrator's conduct in relation to the Partnership through interviews with officials who conducted the investigation in Justice's Office of Professional Responsibility and Justice's Public Integrity Section.

LEGALITY OF OJJDP'S INVOLVEMENT IN ESTABLISHING THE NATIONAL PARTNERSHIP

During hearings held in September 1986, the House Education and Labor Subcommittee on Human Resources questioned whether the

Partnership was created to act as an agency of OJJDP. The Subcommittee asked whether the use of federal funds for organizational meetings and the involvement of an OJJDP official in activities during the Partnership's establishment were violations of 31 U.S.C. 9102. Federal law (31 U.S.C. 9102) prohibits a federal agency from establishing a corporation to act as an agency without specific statutory authorization.

In January 1986, OJP's Office of General Counsel began looking into this matter after problems arose at the Partnership. Office of General Counsel officials said that, based on their review of available documentation, they concluded that federal funds were used for technical assistance and were not used for the formation of the Partnership, and that OJJDP officials did not participate directly in the formation of the Partnership, therefore no violation of 31 U.S.C. 9102 occurred. On the basis of our review of the law, available documentation, and interviews with officials, we agree with OJP's Office of General Counsel's conclusion that the evidence fails to show a violation of the law.

The statute, 31 U.S.C. 9102, provides that "An agency may establish or acquire a corporation to act as an agency only by or under a law of the United States specifically authorizing the action." OJP's Office of General Counsel provided some guidance on the formation of corporations in an April 1982 memorandum to OJP's Office of Justice Assistance, Research, and Statistics. Although directed at a different office from OJJDP, the guidance, in the Office of General Counsel's view, was also applicable to OJJDP. The memorandum advised that

> "It is fine to suggest what our general organizational requirements would be--(501(c)(3)), policy board, management/staff capability, match, etc.)--for any future recipient. However, avoid mandating corporate structure, unrelated organizational capabilities, specifying/identifying staff or policy board members by name. This protects you not only in terms of a possible 31 U.S.C. 869(a) [now 9102] violation but also from any contention by the incorporators that a commitment for funding was made in exchange for establishing an organizational structure in accordance with the agency's direction and specifications."

In an attachment to the April 1982 memorandum, the Office of General Counsel provided the following discussion of the legislative history of 31 U.S.C. 9102:

> "The legislative history of this law indicates that it was intended to restrict and control the formation of Federal

> corporations such as the Commodity Credit Corporation and the Tennessee Valley Authority. However, it would appear to be equally applicable to LEAA's [Law Enforcement Assistance Administration] direct involvement in the creation and organization of the . . . Corporation. The . . . [corporation's] direct and pivotal role in the joint-funding program would appear to make it an instrument of the component Federal agencies. Direct involvement of LEAA in formation of the . . . [corporation] would therefore violate the law and possibly establish a basis to argue that the . . . [corporation] is acting as the agent of the participating Federal agencies."

OJP's Office of General Counsel advises OJP's program offices that to avoid possible violation of or the appearance of a violation of 31 U.S.C. 9102, the program offices should avoid funding of or involvement in the legal steps or procedures required to form a corporation. Thus, it believes a federal agency should refrain from funding the costs, being involved in, or directing activities associated with (1) preparing and filing the articles of incorporation with the state; (2) drafting the bylaws or rules and regulations governing the corporation's internal management; and (3) selecting or identifying, by name, the board of trustees or corporate officers. According to OJP's Office of General Counsel officials, following this advice would avoid any appearance that the organization is or will act as the agent of the government.

The Aspen Systems Corporation

According to OJP's Office of General Counsel officials, even though federal funds were used to assist the incorporators in organizing the Partnership, these funds were used to provide technical assistance toward its establishment and were not used to fund or to direct the legal steps taken to form the Partnership. For example, the meetings held in October and November 1984 and January 1985 to explore the concept of a partnership were sponsored by OJJDP and were paid for with federal funds through an existing OJP contract with Aspen Systems Corporation.

The Aspen contract was a very broad one in which Aspen was to provide technical support to (1) OJJDP and its grantees, (2) the Coordinating Council on Juvenile Justice and Delinquency Prevention, (3) the Missing Children's Program, and (4) the Advisory Board on Missing Children. Technical support was to be provided in the areas of program development, research, evaluation, training, and research utilization activities.

OJJDP used the Aspen contract to provide a variety of services for the Partnership, such as

-- providing support services (e.g., securing meeting sites, developing audiovisual materials) for conferences and meetings relating to public and private program developments on teenage substance abuse;

-- providing consultants to assist in the design and implementation of the Partnership's drug abuse prevention program, to report on the effectiveness of public service announcements as a drug and alcohol abuse prevention tool, and to comment on the goals, objectives, and structure of the Partnership; and

-- providing travel and per diem reimbursement for five consultants who later served as top officials of the Partnership.

As table I.1 shows, approximately $350,000 was spent to support the Partnership through the Aspen Systems contract. Of this amount, at least $111,629 was spent before the Partnership concept was endorsed by the various groups at the January 1985 national meeting. The balance was spent for expenses incurred before the grant was awarded to the Partnership on October 10, 1985.

Table I.1:

Summary of Expenditures Incurred Through the Aspen Systems Contract

Expenditures	Before Jan. 4, 1985[a]	After Jan. 4, 1985[a]	Total
Aspen labor	$ 20,872	$ 53,713	$ 74,585
Other direct costs			
Travel, Aspen staff	1,649	1,788	3,437
Postage	1,182	2,147	3,329
Consultant fees	28,296	36,752	65,048
Consultant expenses	15,408	17,252	32,660
Other travel expenses	4,219	20,971	25,190
Graphics/audiovisual	20,934	16,752	37,686
Conference/hotel/meeting expenses	17,678	84,718	102,396
Word processing	1,391	3,499	4,890
Total	$111,629	$237,592	$349,221

[a]January 4, 1985, is the date OJP used for separating the costs incurred under the Aspen's contract for the Partnership.

OJJDP's Acting Administrator testified at the Subcommittee's September 1986 hearings that most of the work that Aspen Systems performed for the Partnership was from a technical assistance aspect. OJP's Office of General Counsel officials told us that, on the basis of its after-the-fact review of available documentation, they concluded that the federal money spent through the Aspen contract had not been used to pay for the legal steps required to incorporate the corporation but to provide legally permissible technical and organizational assistance. Based on our review, we have no basis to disagree with this conclusion.

OJJDP's former Deputy Administrator's involvement with the Partnership's organizational structure

OJJDP's former Deputy Administrator was the primary initiator and advocate for the establishment of the Partnership. According to a December 6, 1984, memorandum from OJJDP's Deputy Administrator to prospective Partnership members, OJJDP was ". . . developing a proposed task force structure for the partnership, including proposed task force membership, goals, and activities." In addition, a June 9, 1986, letter from a Partnership officer to OJJDP said that many weeks before the Partnership was actually organized, the Deputy Administrator solicited the services of

several consultants through the National Executive Service Corps (NESC)--a personnel recruiting firm. The letter further indicated that the Deputy gave the consultants a briefing book on the Partnership and provided them with detailed descriptions of the key vice president positions, which they later assumed.

OJP's Office of General Counsel officials said that there are no judicial or administrative decisions interpreting 31 U.S.C. 9102. However, their reading of the phrase "establish a corporation" is that it includes, among other things, (1) preparing and filing the articles of incorporation; (2) preparing the bylaws; and (3) identifying and selecting by name, the board of trustees and corporate officers. The statute would not, in the General Counsel's opinion, preclude an agency from encouraging the formation of a corporation. Thus, the development of a proposed task force structure for the Partnership as discussed in the December 6, 1984, memorandum, occurring months before the incorporation, would not constitute an impermissible activity. The General Counsel said that activities such as those described in the December memorandum are consistent with OJJDP's statutory mandate to foster cooperative anti-delinquency and anti-drug efforts. The General Counsel also said that these activities took place during a time when meetings to further the mutual interest of OJJDP and various diverse groups were going on, adding that this was earlier than the time of the Partnership's incorporation, and that the activities described do not encompass the legal tasks that make up the elements of incorporation.

Our review of documentation and interviews with agency and Partnership officials and OJJDP's former Administrator and former Deputy Administrator suggests that the former Deputy Administrator was closely involved with the Partnership during the time of its incorporation. The former Deputy was a member of the steering committee that was formed to develop the organizational structure for the Partnership and which unanimously approved the Partnership's bylaws. He participated in interviews with individuals who were selected as Partnership officers, including the Partnership's president whom he strongly advocated. However, OJP's Office of General Counsel officials said they believe that the Deputy did not impermissibly direct how the Partnership was to be structured, therefore no violations were committed. OJP's Office of General Counsel officials also said that the relationship between the former Deputy Administrator and the Partnership was closer than it should have been, thereby possibly creating the appearance of wrongdoing. They told us that the Deputy's actions were contrary to the advice they had provided regarding his involvement with the formation of the Partnership.

The General Counsel pointed out that the former Deputy's use of NESC to recruit senior staff and board of trustee members is not the same as the Deputy personally selecting or identifying the personnel to be hired. The General Counsel said that its office did not conduct an investigation of the issue of whether the former Deputy Administrator selected key personnel. However, based on its after-the-fact review of available documentation, they found no evidence that the Deputy selected the staff himself.

According to a summary of the January 29, 1985, Partnership meeting, OJJDP's Deputy Administrator was a member of the steering committee which had been formed to plan the Partnership's organizational structure. During a steering committee meeting held in February 1985, which the Deputy Administrator attended, a draft organizational structure was presented and further developed. The steering committee, which was comprised of about 55 members, formed a subcommittee to refine this structure and to draft written Partnership bylaws--rules governing the operation of the Partnership, including its organizational structure. The Deputy Administrator was not a member of this subcommittee. At a subsequent steering committee meeting, which the Deputy attended, the subcommittee presented its report and the steering committee agreed, by unanimous vote, on the Partnership's bylaws, including its organizational structure.

The former Deputy Administrator told us that he was the primary initiator of the formation of the Partnership. He said that, once the Partnership was established, he tried to limit his involvement but was forced into taking a leadership role by default since nothing was going to be accomplished otherwise. The former Deputy Administrator also said that he was involved with designing the Partnership's organizational structure, but that he purposely did not serve on the bylaws subcommittee.

There is conflicting information, however, regarding the former Deputy Administrator's involvement with the selection of Partnership officials. A former Partnership board of trustee member told us that he believed that the chief officers of the Partnership were hired by the Deputy Administrator through NESC. The trustee said that the board did not have any say in their selection and that the officers were presented to them as a "fait accompli." According to the minutes of the Partnership's initial board of trustees meeting, held on October 9, 1985, three initial board members, including the one with whom we met, elected the chief officers and board of trustees. These officers were then presented to the newly elected board of trustees at their first official meeting, the following day, October 10, 1985. However, in an April 8, 1986, letter to OJJDP, NESC's vice chairman said

NESC recruited the four vice presidents of the Partnership but that the individual selected for the president's position was identified and strongly recommended by several people and thus NESC could not take credit for his hiring.

We contacted NESC's vice chairman and were told that two or three people had urged NESC to nominate the individual for the president's position. According to NESC's vice chairman, OJJDP's former Deputy Administrator was initially opposed to the individual suggested but later became persuaded the individual would be a good choice. However, the former Deputy Administrator told us that he was never opposed to this individual becoming the Partnership's president and supported his nomination from the beginning. The former Deputy also said that, while he did not develop the criteria for selecting the Partnership's president, he did participate in the interview and participated in other interviews arranged by NESC of individuals to serve as Partnership officials. An official in Justice's Public Integrity Section who conducted an investigation from January to June 1986 into the Deputy Administrator's involvement with the Partnership (see p. 22) told us that the Deputy recommended this individual to NESC for the Partnership's president position in July 1985.

OJP's Office of General Counsel officials said they were unaware that the former Deputy Administrator had been a member of the steering committee, but that he should not have been from an appearance standpoint. Furthermore, they said that his participation in personnel interviews may have added to the appearance of impropriety. They said that while the Deputy's activities may have been unwise and may have gone beyond what appeared to be appropriate, they did not believe these actions were a violation of 31 U.S.C. 9102. These actions could not be construed, in their opinion, as establishing the Partnership as an agency of the federal government.

ANALYSIS OF REQUIREMENTS OF 31 U.S.C. 9102

We, like OJP's Office of General Counsel, are unaware of any judicial or administrative guidance interpreting 31 U.S.C. 9102. As pointed out in the attachment to OJP's April 1982 memorandum, the legislative history suggests that the purpose of the law was to restrict and control the formation of federal corporations, such as the Commodity Credit Corporation and the Tennessee Valley Authority. These corporations were created for the purpose of carrying out a government function which, up to that time, had been performed by a government agency or entity specifically authorized by Congress to perform that function. Section 9102 was enacted in 1945 as part of the Government Corporation Control Act. The purpose of the act was to bring government corporations

and their operations under annual scrutiny by Congress and to provide financial control over them. This legislation was in response to a significant increase in the number of government corporations and in their importance in the financial structure of the United States.[1]

We agree with OJP's Office of General Counsel's conclusion that the evidence fails to show a violation of 31 U.S.C. 9102. As noted earlier, section 9102 provides that "An agency may establish or acquire a corporation to act as an agency only when specifically authorized to do so." The statute has two elements, both of which, in our opinion, must be satisfied in order to establish a violation. First, as relevant here, the evidence must show that the agency "establish[ed] . . . a corporation" and second, that such corporation was created to act "as an agency" of the United States.

With respect to the first element, the verb "establish" was substituted for "created [or] organized" when title 31 United States Code was codified.[2] As pointed out by OJP's Office of General Counsel, OJJDP acting by or through the Administrator or Deputy Administrator did not direct or take the necessary legal steps to incorporate the Partnership.

Although the former Deputy Administrator may not have "created," in the legal sense, the Partnership, he has advised us that he was the primary initiator and advocate of the Partnership. As discussed above, the Deputy Administrator was a member of the steering committee that planned the Partnership's organizational structure and approved the bylaws developed by the bylaws subcommittee. He was involved in obtaining NESC's services to recruit Partnership senior staff and board of trustee members and participated in interviews of individuals selected as Partnership officers. Finally, to some extent, he was involved in OJJDP's approval process of the Partnership grant. However, the record does not establish that he selected the initial board of trustees or the individuals subsequently presented to the board to be officers and trustees of the corporation or that he structured the Partnership's organization.

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[1]See S. Rep. No. 694, 79th Cong., 1st Sess. 2, 3 (1945); H.R. Rep. No. 856, 79th Cong., 1st Sess. 1,2 (1945).

[2]No change in meaning. Changes in terminology and style made by codification of title 31 into positive law did not result in changes in substance. See H.R. Rep. No. 651, 97th Cong., 2nd Sess. (1982) p.3.

Although the above raises a substantial question of whether the Deputy Administrator "organized" the Partnership within section 9102, we are not convinced that the second element of a violation of 31 U.S.C. 9102 is met. OJJDP is charged by its authorizing legislation to assist in the development and implementation of juvenile delinquency programs. Thus, efforts and the funding of efforts to foster the establishment of organizations, whether corporate or otherwise, whose purposes are consistent with the goals and objectives of OJJDP's authorizing legislation, are only proscribed by 31 U.S.C. 9102 to the extent the grantee organization is an agency of OJJDP. Although the Partnership as a grantee is subject to the terms and conditions of the grant agreement, the mere existence of a grant relationship between OJJDP and the Partnership does not make the Partnership in its capacity as an OJJDP grantee an agent of OJJDP. Nor does the record permit us to conclude otherwise.

Accordingly, we conclude that the actions taken by OJJDP with respect to the Partnership do not establish a violation of 31 U.S.C. 9102.

GRANT AWARD PROCESS

OJJDP has established procedures for reviewing and awarding grants, but the grant to the Partnership was not done in accordance with OJJDP's normal process. Even though the grant application was reviewed by an independent panel as required by agency policy, OJJDP's Administrator modified the criteria for reviewing the application. Further, a ceremony to announce the grant award was already planned before the panel formally reviewed the application.

The Partnership submitted an application for a grant to OJJDP in September 1985. OJJDP reviewed the application and initiated actions to make a noncompetitive award. However, the Assistant Attorney General, OJP, informed OJJDP that for the grant to be awarded noncompetitively, the application must first be reviewed by a panel of persons with expertise in the subject area as outlined in OJJDP's Peer Review Manual. Even though the manual was not formally adopted by OJJDP until May 15, 1986, the agency had decided to follow its provisions in awarding grants and it was being used in October 1985. According to the manual:

> "Peer review recommendations are advisory only and not binding on the OJJDP Administrator except in the case of noncompetitive project applications that are determined through peer review not to be of such outstanding merit as to justify a noncompetitive award."

In addition, for a grant to be awarded noncompetitively,

> ". . . such applications must be determined through the peer review process to rate as 'outstanding' by a majority of the peer reviewers, and the remaining reviewer(s) must rate the application at least 'good.'"

In accordance with its Peer Review Manual, OJJDP maintains a pool of potential peer reviewers from which a panel can be selected. To be eligible, reviewers should have a general knowledge of juvenile justice or related fields and/or specialized knowledge in areas or fields addressed by the applications to be reviewed. The program manager assigned to monitor the grant application, and later the grant itself, specifies the particular areas of expertise applicable, and persons within the pool meeting these requirements are identified as eligible reviewers. The program manager then selects the peer review panel from among that group subject to final approval by the Administrator of OJJDP.

OJJDP's program manager for the grant followed these procedures and compiled a list of persons eligible for the panel. According to the program manager, the Administrator and Deputy Administrator of OJJDP approved one of these persons and rejected the other candidates, but gave no reasons for their rejection. The Deputy Administrator then added two other names to the list; however, on October 8, 1985, one of these individuals withdrew and the other was asked to withdraw by the program manager because of possible conflict of interests. The Administrator and Deputy Administrator then selected two additional persons for the panel, one of whom was a member of the pool and one of whom was not. The former Deputy Administrator told us that he did not reject any candidates, but that he did recommend several candidates. The former Administrator told us that he could not recall the specific events about the peer review.

The three persons selected for the panel had various backgrounds. One of the panel members had experience in the drug and alcohol abuse field. According to his biographical data, this member's education was in criminology, social problems, and correctional administration. His work experience covered 15 years at the local, state, and federal levels in the areas of policy formulation, program development, planning and training for treatment, and rehabilitation programs of offenders. Of the two members selected by the Administrator and Deputy Administrator, one had a broad background in public policy and educational issues and, according to his resume, had taught in the public school system and had held positions in the Department of Education. According to OJJDP records, the other member had

a background in the juvenile justice area, although OJJDP did not have this member's resume on file.

The peer review was held on October 8 and 9, 1985, 2 days before a planned White House ceremony to announce the awarding of the grant to the Partnership. On the first day of the review, one panel member reviewed the total application and, in accordance with the Peer Review Manual, made both a qualitative and quantitative assessment evaluating the following elements: statement of the problem, definition of objectives, intrinsic merit, project design, management structure, organizational capability, and reasonableness of cost. This reviewer rated the application a score of 55 out of a possible 100 points, which is considered a "fair" rating according to the criteria in the Peer Review Manual. In addition, this reviewer, who had a background in the drug and alcohol area, said in his review:

> "I continue to be very favorably impressed with the vision of the National Partnership, and strongly recommend the initiative be pursued. I wish to add, however, that the application I reviewed while commendable in some respects, has serious deficiencies which should be considered and improved upon."

According to the program manager, upon learning of this review, OJJDP's Administrator departed from the Peer Review Manual standards and changed the criteria for evaluating the proposal. However, the manual contains no provisions allowing the Administrator to modify these standards. On October 9, 1985, the other two reviewers were selected and were told to only narratively evaluate the concept as opposed to the total application. The first reviewer was called and asked to evaluate only the concept. All three reviewers evaluated the concept as outstanding. The Administrator then determined, through the peer review, that the Partnership's proposal was of such outstanding merit that a noncompetitive award was justified.

The former Administrator told us that while he could not recall much about the peer review, this was the first time the new peer review procedures were used and that OJP's Office of General Counsel was involved and approved OJJDP's handling of the peer review. However, OJP's General Counsel and Associate General Counsel told us that they disagreed that they approved the handling of the peer review. They said that because of the less-than-outstanding evaluation of the grant application by the first peer review panel member and because a White House ceremony announcing the grant award was scheduled to be held within a couple of days, the Administrator asked them if the process could be modified. Office of General Counsel officials told us that they advised the Administrator that since the Peer Review Manual

was only in draft and had not been incorporated into regulations, it was not binding on the Administrator. Consequently, they advised the Administrator that, while it was not illegal to modify the procedures, it would be inconsistent with the spirit of the peer review guidance.

On October 10, 1985, OJJDP awarded a $1 million grant to the Partnership. The award was made retroactive for the period of August 1, 1985, through January 31, 1987. As a special condition of the award, the Partnership was to submit by January 10, 1986, a detailed implementation plan describing quantitative projections of accomplishments to be achieved. The Partnership submitted its implementation plan to OJJDP on March 19, 1986. The plan was approved by OJJDP on April 1, 1986.

MANAGEMENT OF THE GRANT

After a grant is awarded, OJJDP's grant program manager normally monitors a grantee's progress by reviewing progress reports submitted by the grantee and conducting on-site visits. According to OJJDP's program manager for the grant, the grant was not monitored in the usual way. First, the grant program manager did not become involved in the Partnership until December 1985. Normally, he would have made his first site visit earlier. According to OJJDP's program manager for the grant, this did not occur because his superiors had made it clear to him that his involvement with the grant was to be limited. The program manager said that he was excluded from all meetings involving the Partnership leadership and his superiors until December 10, 1985. These meetings concerned the implementation of the Partnership program, and the program manager said that normally he would have been a key participant. The program manager's immediate supervisor, however, disagreed that the program manager had been directed to limit his involvement, adding that it was not necessary for the program manager to attend all of the meetings concerning the Partnership grant.

The former Deputy Administrator told us that the grant was not monitored in the usual way because the Assistant Attorney General for OJP and OJP's Office of General Counsel were more closely involved than normal. He also said that the program manager may have perceived that he was to be involved on a limited basis because OJJDP's Administrator, with the Deputy's support, did tell the Associate General Counsel to "stay out" of the Partnership. Further, the former Administrator said that while he could not recall specific events or when the program manager was assigned to the grant, when problems with the Partnership first arose he instructed the program manager to become more actively involved. Officials in OJP's Offices of General Counsel

and the Comptroller said that they were scheduled to make a site visit with the program manager in December 1985, but the Administrator told them not to attend.

On December 10, 1985, OJJDP's program manager made the first site visit. The purpose of the visit was to determine the program's initial progress and the extent of compliance with special conditions, explain OJJDP's reporting requirements, and discuss OJJDP procedures for handling programmatic and budget changes and deviations.

During the first 5 months of the grant period, the Partnership was experiencing problems with its leadership. For example, conflicts occurred between senior level Partnership staff and, according to Justice's Office of Professional Responsibility and Public Integrity Section officials, complaints from Partnership staff arose concerning the abilities of the Partnership's president and OJJDP's Deputy Administrator's involvement in the Partnership. Moreover, because he had some discussions concerning possible employment at the Partnership, on December 11, 1985, the Deputy Administrator submitted a letter to the Administrator asking to be recused from any management activities involving the Partnership. Officials in OJP's Office of General Counsel told us that they had advised the Deputy to submit his recusal letter.

Investigation of OJJDP official for possible violations of 18 U.S.C. 208

In December 1985, a Partnership official complained to the Department of Justice's Office of Professional Responsibility that OJJDP's Deputy Administrator had become too personally involved with the Partnership and that the Deputy was directly involved with its management. The complaint further asserted that the Deputy Administrator was lobbying to be made president of the Partnership. In response to the complaint, the Office of Professional Responsibility determined that there might be a possible violation of 18 U.S.C. 208, which prohibits a federal employee from participating in work duties that affect an organization with whom the employee is negotiating or has arrangements for future employment. The Office of Professional Responsibility turned the case over to the Public Integrity Section of Justice's Criminal Division.

Public Integrity Section officials said the purpose of their investigation was to determine if the Deputy Administrator had negotiated with the Partnership to become president while serving as Deputy Administrator of OJJDP. This investigation took place from January 6, 1986, through June 1986. Public Integrity officials, along with the Federal Bureau of

Investigation, interviewed both OJJDP and Partnership officials. According to Public Integrity officials, while there was some conflicting information as to the time and events that took place and some issues were not resolved, their office concluded that there was insufficient evidence as to whether the Deputy Administrator had violated the statute and insufficient evidence to warrant criminal prosecution. The Office of Professional Responsibility was considering administrative action against the Deputy regarding his involvement with the Partnership when the Deputy resigned from OJJDP on June 16, 1986.

The former Deputy Administrator told us that he never lobbied to be made president of the Partnership. He also said that two senior Partnership officials were conspiring to keep him out of the Partnership and maintain control themselves. He said the complaint had no merit and was merely an attempt to further these goals.

Management problems in the Partnership

Throughout January and February 1986, the Partnership continued to experience problems with their management. For example, according to Justice officials, Partnership staff and trustees were unhappy with the president of the Partnership. On January 17, 1986, the Partnership's president attempted to fire the Partnership's law firm when he learned that the law firm had supported an attempt by the board to ask for his resignation. At the third board of trustees meeting on January 27, 1986, the board discussed the division among the Partnership leaders and the lack of a chairman and chief executive officer. An interim chairman was elected at that meeting. On February 19, 1986, the president of the Partnership tendered his resignation.

During the first 2 months of 1986, OJJDP officials made several site visits to provide technical assistance. On the basis of information gained from meetings between OJJDP and Partnership staff during these site visits, the program manager concluded that:

-- Even though the Partnership's president had tendered a resignation, he was still on board and functioning as president. In addition, decisions were being made by the president affecting the budget and operations of the program, such as hiring a senior staff member at $60,000 per year.

-- The Partnership had received $482,000 or 48 percent of the $1 million award. However, no products had been developed or objectives met to show that the program was performing in an acceptable manner.

-- The detailed implementation plan, which was due January 10, 1986, was only in the development stage.

As a result of these findings, OJJDP's Administrator imposed a limited freeze. The Partnership was directed to limit staff activities and expenditures in order to focus the remaining resources on the completion and implementation of the detailed implementation plan. On March 14, 1986, the president of the Partnership actually left the Partnership. Five days later, the Partnership submitted its implementation plan to OJJDP, which was approved by OJJDP on April 1, 1986.

On April 7, 1986, the Partnership appointed an acting president. Later that month, the board of trustees met and adopted the implementation plan and the limited freeze was lifted. According to a May 16, 1986, internal OJJDP memorandum, OJJDP learned that since mid-March 1986, four prominent board members had resigned and that these resignations were probably related to the Partnership's implementation problems.

FINANCIAL IMPROPRIETIES

During the second site visit made by OJJDP officials in January 1986, OJJDP learned of possible financial and management improprieties. In subsequent site visits, OJP and OJJDP officials found that numerous financial policies and procedures may have been violated.

Contracting procedures not followed in NESC contract

During one of the site visits, OJJDP officials learned of the Partnership's contract with NESC. As mentioned previously, NESC was to recruit senior executives and the board of trustees for the Partnership. This $50,000 contract was noncompetitively awarded without formal OJP approval. Based on information obtained from Partnership records, OJJDP's Acting Administrator forwarded a February 3, 1987, memorandum to the Audit Review Committee which indicated that OJJDP's former Deputy Administrator had verbally authorized the Partnership to enter into this contract. (The Audit Review Committee reviews grants and resolves cost issues when a grantee's expenditures are questioned.) OJJDP also learned that the Partnership's contract with the NESC was an oral one and that no written contract existed.

OJP's Office of the Comptroller later resolved $45,000 of the $50,000 questioned for the NESC contract. The Office of General Counsel determined that the Partnership's contract with NESC violated six separate provisions in Office of Management and

Budget circulars and OJP's Financial and Administrative Guide for Grants, including a lack of prior federal agency written approval and a written contract. According to OJP and OJJDP officials, $33,000 of the $45,000 was subsequently approved as a legitimate claim for reimbursement for recruitment efforts for officers, employees, or consultants, and would have been allowable had the contract been approved in advance. Further, the $33,000 was allowed because the Partnership acted in good faith since the contract had been approved in advance by the former Deputy Administrator, who directed the Partnership to pay the contractor even though the former Deputy lacked the authority to do so. OJP's Audit Review Committee deemed the other $12,000 uncollectible because the Partnership had no remaining funds and collection efforts would be useless. The other $5,000, which was never paid to NESC, was disallowed as corporate formation costs.

The former Deputy Administrator said he discussed the services to be provided to the Partnership with NESC officials. However, he told us there was no discussion of money. The former Deputy said that when NESC subsequently billed the Partnership, he told NESC's chairman that he could not authorize payment for the contract from federal funds. Further, he said that he told NESC's chairman that payment for the contract had to be worked out between NESC and the Partnership. The former Deputy also said that he told a Partnership official that he did not think that NESC should be paid from grant funds and that the Partnership had to decide how and if they would pay NESC. (Approximately $9,000 in private funds from contributions and membership fees had been raised.) In support of his statement that he did not direct payment of the NESC contract, the former Deputy referenced a January 30, 1986, letter from NESC to the Partnership. According to this letter, NESC and the Partnership's steering committee agreed on the organizational activities and consulting services to be performed and the fee for these services. As previously noted, however, OJJDP's former Deputy Administrator was a member of the steering committee.

OJP and OJJDP officials told us that, based on their review of records, they determined that the former Deputy Administrator had directed the payment to NESC. In support of this conclusion, they cited a January 13, 1986, letter from the Partnership's treasurer to NESC's vice chairman, which states that the former Deputy Administrator authorized the $45,000 payment from grant funds on December 13, 1985.

According to the former Deputy Administrator, information in this letter was inconsistent. He pointed out that the letter states that he authorized the payment on December 13, 1985, which was 2 days after he had recused himself from Partnership activities (on December 11, 1985) and seven days after the

Partnership's treasurer paid NESC (on December 6, 1985). The former Deputy also referred to a December 13, 1985, memorandum to the file by the Partnership's treasurer which provided additional information about these dates. The December 13, 1985, memorandum states that while at the Partnership's offices on November 20, 1985, the former Deputy Administrator indicated that NESC should be paid. The memorandum stated that the treasurer talked with the former Deputy Administrator on December 13, 1985,

> ". . . to reconfirm his [the Deputy Administrator's] earlier authorization of payment to NESC for services to the National Partnership in the amount of $45,000 for work done from August 1 through October 30, 1985. He indicated that this sum could be paid from grant funds."

The former Deputy Administrator told us that he never authorized payment for the NESC contract. He also said that he believes that this memorandum to the file was written as an attempt by the Partnership to show that they had obtained agency approval before paying the contract.

Honeywell ADP services procurement

On April 1, 1986, OJJDP officials learned that the procurement of $73,270 of automatic data processing (ADP) equipment and services from Honeywell Information Systems, Inc. may have violated agency ethical standards and financial requirements. OJJDP officials were concerned with an appearance of a conflict of interest in selecting Honeywell since a senior vice president of the Partnership involved in making the decision was a former executive employed by Honeywell for 40 years. The award was noncompetitive and no prior agency approval was obtained. OJP's Financial and Administrative Guide for Grants encourages competition for all procurements. The guide also requires that all sole-source procurements over $10,000 must receive prior approval of the grantor agency. For ADP procurements over $50,000, the guide also requires prior agency approval that the ADP equipment being purchased is necessary and sufficient to meet the project goals.

The Partnership hired an outside consulting firm to review Honeywell's proposal and it evaluated the proposal as appropriate for the Partnership's needs. During their review of the Honeywell contract, OJJDP officials learned that the principal of the firm evaluating the proposal was a personal friend of the Partnership's vice president involved in purchasing the Honeywell equipment and services. According to OJJDP officials, this presents another appearance of a conflict of interest. After reviewing the Honeywell sole-source contract,

OJP's Office of the Comptroller concluded that the procurement was an acceptable transaction because Honeywell gave the Partnership $78,000 worth of office equipment free of charge. The $73,270 was allowed because the office equipment was worth more than the cost of the contract. According to OJP's General Counsel, however, the appearance of a conflict of interest was not removed.

Additional financial improprieties

On May 9, 1986, OJJDP officials informed the Administrator of additional questionable expenditures related to the Partnership. These included the unauthorized approval by senior vice presidents to grant a personal loan to an employee in the amount of $2,000 and the decision by senior vice presidents to purchase expensive office furniture, a microwave oven, and a refrigerator. In addition, OJJDP staff learned of other questionable expenditures, including the use of grant funds for entertainment and other personal expenses by Partnership officials through the use of the Partnership's credit cards. OJJDP then directed the Partnership to take corrective action, including having three senior Partnership vice presidents resign because OJJDP officials believed that their management decisions were of detrimental and limited value to the overall program. Other actions included the repayment of the personal loan and the return of all credit cards to Partnership management. The program manager stopped the procurement of the microwave and refrigerator.

On May 28, 1986, OJP and OJJDP did a limited financial review which included examining the Partnership's consultant billings, travel policy, entertainment expenses, moving expenses, and compensation practices. Following the review, Partnership officials were informed of the findings and the corrective action needed, which included, among other things, documenting the activities of consultants and establishing a travel policy.

On May 21, 1986, the Administrator of OJJDP resigned to take a position in the private sector. On June 9, 1986, an Acting Administrator of OJJDP was appointed. One of the first actions taken by the Acting Administrator was the suspension of the grant pending a review of the program and a financial audit. As mentioned previously, on June 16, 1986, the Deputy Administrator of OJJDP resigned.

On June 18 and 19, 1986, OJP officials did a more detailed financial review and found a number of potentially unallowable expenditures, such as awarding sole source contracts without first obtaining agency approval, awarding consultant contracts at rates higher than the approved federal level, and making improper payments on various items. OJJDP questioned a total of $144,864

as a result of their financial reviews. Of the total amount questioned, $127,195 was ultimately paid from federal funds ($115,195 was allowed and $12,000 was written off as uncollectible). Table I.2 shows the Partnership's expenditures questioned by OJJDP and their resolutions.

APPENDIX I

Table I.2: Partnership Costs Questioned by OJJDP and Resolutions

Issue	Approx. amount	Reason cost questioned by OJJDP	Amount paid	OJJDP's resolution/rationale
National Executive Service Corps contract	$50,000	Sole source contract with no prior federal approval and unallowable corporate formation costs.	$45,000	$33,000 of the $50,000 questioned were determined to be legitimate costs. The Deputy Administrator approved the NESC contract. Using its compromise and settlement authority, OJP's Audit Review Committee wrote off $12,000 as uncollectible. The remaining $5,000 was ruled to be corporation formation costs for services prior to the start date of the grant, was disallowed, and was never paid to NESC.
Legal expenses	$7,937	Personal legal expenses.	$7,937	Funds were used for analyzing the structure of the Partnership, which is a proper charge.
Legal expenses	$3,035	Corporate formation costs which were never approved.	$971	This amount was for legitimate corporation formation expenses. The remaining $2,064 was used for drawing up bylaws, which was an unapproved corporation formation cost and was never paid.
Entertainment cost	$2,500	Unallowable charge.	$0	Unallowed. Refunded from private funds.
Personal loan	$2,000	Unallowable charge.	$0	Unallowed. Refunded by employee.
Honeywell lease	$73,000	Sole source contract with no prior federal approval.	$73,000	The donation (by Honeywell) of $78,000 worth of office equipment to the Partnership made this contract acceptable.
Application preparation fee	$3,900	Unallowable charge.	$0	Paid for with private funds.
System automatic data processing analysis	$1,020	Consultant contract with no prior federal approval for fee in excess of $150 per day. Possible conflict of interest.	$287	Allowed as a proper charge. The remaining $733 was paid for with private funds.
Dual compensation	$1,107	Consultant was being paid by two companies in violation of federal regulations.	$0	Unallowed. Amount deducted from consultant's last paycheck.
Private travel	$365	Payment of air fare for fiancee of employee.	$0	Unallowed. Employee reimbursed the grantee.
TOTALS	$144,364		$127,195	

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ACHIEVEMENT OF PROGRAM OBJECTIVES

OJJDP did a programmatic review of the Partnership on June 18 and 19, 1986. As table I.3 shows, OJJDP determined that few of the program objectives had been achieved. Further, OJJDP determined that the level of progress at that time would not result in the achievement of the remaining objectives within the grant period. The Partnership disagreed with OJJDP's assessments because they believed that some of the grant objectives listed in the grant application were no longer applicable or had been modified since OJJDP approved the grant's implementation plan on April 1, 1986. For example, the Partnership believed the objective of raising $1.5 million in private funds was no longer applicable since no specific amounts were mentioned in the implementation plan, even though this amount was cited in the original proposal. In addition, Partnership officials said that the former Deputy Administrator had directed that the Partnership delay fund raising until the proposed chairman was on board. According to Partnership officials, the proposed chairman requested this. Partnership officials also believed progress was being made toward meeting the objectives and that most of the objectives could have been met within the grant period. OJP and OJJDP officials told us that the objectives of any grant remain in effect until the grantee formally requests that a objective be amended. They said that the Partnership never requested that the private funding objective be amended.

APPENDIX I

Table I.3: OJJDP's Assessment of Partnership Program Objectives

Major grant objectives	Modifications requested and approved 4/1/86	OJJDP's June 1986 assessment
1) Establish Partnerships in 20 states and 100 cities	Establish 34 to 60 state and local Partnerships by December 1986[a]	One Partnership established and 14 sites were in various stages of consideration
2) Establish and nurture exemplary "Our Town" pilot projects in five cities	None	Not achieved
3) Review and select 10 to 15 drug and alcohol prevention projects for replication	Objective to be completed by December 1986	One program selected
4) Raise $1.5 million through private sources	None	Effort suspended by Partnership in December 1985 (approximately $9,000 raised in contributions and membership fees)
5) Enlist the media in campaign to support prevention oriented programs	None	Activities were ongoing
6) Involve prominent business leaders to help accomplish goals of Partnership	None	Influential board of trustees recruited
7) Provide focus and rallying point for citizen groups concerned with the problem	None	Approximately 57 organizations became members of the Partnership
8) Increase resources, options, and power of professionals in the field of substance abuse by identifying new and effective strategies and helping to implement them	None	Not achieved

[a]Although the goal of 34 to 60 state and local Partnerships was requested by the Partnership and approved by OJJDP, OJJDP officials said that they had discussed with Partnership officials reducing this further to six cities.

The former Deputy Administrator told us that he did not direct the Partnership to delay private fund raising. He instead argued that in a meeting between the proposed Partnership's chairman, the Partnership's president, and himself, the president perceived this on the basis of comments made by the proposed chairman concerning private funding raising activities being done on a large scale.

The interim Partnership chairman told us that after he became chairman in January 1986, he made the decision not to attempt to raise private funds because of the internal conflicts in the Partnership. According to the chairman, it was common knowledge that the Partnership was experiencing problems and sources which might have been used to obtain funds were not likely to make donations under these circumstances.

CLOSEOUT OF THE NATIONAL PARTNERSHIP

On June 23, 1986, OJJDP's Acting Administrator informed the Partnership that as a result of the financial and programmatic reviews, the program would formally end on July 31, 1986. OJP and OJJDP officials then notified the Partnership of major activities that had to be undertaken to close out the program. On July 31, the Partnership submitted its final report to OJJDP and the grant formally ended, although activities necessary to close out the Partnership continued for another year.

Of the $1 million grant, OJJDP disbursed $964,856 to the Partnership, of which $950,072.19 was spent. On July 9, 1987, the Partnership returned the remaining $14,783.81 to OJJDP. The Partnership, which had delayed the return of these funds, had requested that this money be used to pay some outstanding debts, including some legal expenses. OJP's Offices of General Counsel and the Comptroller ruled that the payment of these debts were unallowable and OJJDP's Administrator denied the request. On July 9, 1987, the Partnership made a final request to Justice that $1,700 for outstanding legal expenses be paid by OJJDP. This request was denied, however.

OJJDP'S ASSESSMENT OF THE NATIONAL PARTNERSHIP GRANT

In two April 14, 1987, memoranda from OJJDP's Acting Administrator to the Attorney General, OJJDP assessed the Partnership grant and identified the major deficiencies in the program which caused it to fail. According to these

memoranda, one of the major problems was a lack of overall leadership within both the Partnership and OJJDP. One example cited of a lack of effective OJJDP leadership was the holding of Partnership plans and ideas very close by one OJJDP official, the Deputy Administrator, who was the principal Partnership advocate. As such, the Deputy did not inform OJP officials of events related to the Partnership. In addition, the memoranda noted that OJJDP should have provided closer oversight to the project at critical times. For example, during the period of July through September 1985, closer oversight was needed to ensure that the emphasis placed on the program was not forcing circumvention of government procedures in awarding the grant. According to the memoranda, closer oversight was also needed during the first 6 months of the grant.

The memoranda also noted that a major deficiency in the program was the Partnership's failure to provide overall leadership. At the time of the grant award, there was a designated president and chief operating officer, but no full-time staff, chairman, or chief executive officer. The absence of a skilled, experienced, and committed leader at critical times undermined the project, in OJJDP's opinion. The Partnership experienced conflicts between its chief officers and a permanent chairman was never appointed.

One of the memoranda identified the following seven factors as contributing to the Partnership's problems:

-- too ambitious a mission to accomplish in so short a time period,

-- lack of effective and sustained leadership,

-- lack of adequate management and supervision within the organization,

-- lack of appropriate subject matter expertise within the organization,

-- lack of membership constituency to sustain and encourage the organization's activities,

-- inability of the program to attract a nationally recognized individual to serve as Chairman of the Board, and

-- eventual demoralization of the existing staff.

According to the memoranda, OJJDP concluded that while the program failed, the concept was basically sound. OJJDP further noted that once the problems were recognized, (1) "proper" decisions were made at "critical" times, (2) procedures were followed and used "effectively" to contain the problem, and (3) an "orderly" termination of the grant was conducted.

In commenting on OJJDP's assessment that the former Deputy Administrator did not inform OJP officials of events relating to the Partnership, both the former Administrator and Deputy Administrator told us that other officials within Justice, including OJP's General Counsel, were informed about Partnership activities. The Deputy Administrator said that Partnership meetings were open to anyone who wanted to attend. The Deputy Administrator also said that he believed the Partnership failed because of politics and conflicts within both the Partnership and Justice. OJP and OJJDP officials told us that while the meetings may have been open to anyone, they were never notified of upcoming Partnership meetings. Further, they questioned whether these meetings were truly open because they said that they knew of one Partnership meeting when the Partnership's president hired guards to prevent anyone but members of the board of trustees from attending the meeting.

The interim Partnership chairman told us he believed that the Partnership was a good idea but that many of the problems the Partnership encountered were due to poor judgments by several individuals. For example, senior Partnership officers, with the exception of the president, did not have experience in the drug and alcohol field. He also said that the original proposal as stated in the Partnership's grant application was too "grandiose." The original objective of establishing hundreds of state and local partnerships in one year was ludicrous, according to the chairman. When he took over as interim chairman, he scaled the objectives down. In his opinion, poor judgment was exercised in many of the expenditures made by the Partnership. During his experience with OJJDP through another grant, OJJDP officials provided close oversight and had been very strict about expenditures. Consequently, he could not understand why OJJDP had been so lax with the Partnership grant. When he became interim chairman, the Partnership was already in trouble because of poor decisions. The interim chairman generally agreed with OJJDP's assessment of the Partnership grant, except that he believed that the Partnership had provided adequate supervision and had sufficient membership constituency.

CHRONOLOGY OF EVENTS RELATING TO THE NATIONAL PARTNERSHIP GRANT

October 3-4, 1984	First Partnership organizational meeting - with media.
November 13-14, 1984	Second organizational meeting - with citizen groups.
November 27-28, 1984	Third organizational meeting - with business groups.
January 10, 1985	Fourth organizational meeting - with professional groups.
January 29-31, 1985	First national meeting to organize the Partnership held in Williamsburg, Virginia.
April 1985	National Executive Service Corps hired to recruit senior executives and board of trustees.
June 7, 1985	Articles of Incorporation filed; law firm hired to provide legal services.
August 1, 1985	Grant period officially began.
August 1985	Grant application proposal, which was prepared by a consultant, submitted to OJJDP.
October 8-9, 1985	OJJDP convened a peer review panel to review the grant application.
October 10, 1985	Grant awarded (retroactive to August 1, 1985) with White House ceremony and kick-off dinner with the Attorney General.
December 10, 1985	OJJDP's grant monitor made first official site visit.
December 11, 1985	Deputy Administrator of OJJDP recused himself from Partnership activities.

December 1985	Partnership official filed a complaint with Justice's Office of Professional Responsibility concerning the Deputy Administrator's involvement with the Partnership.
January 6, 1986	Justice's Office of Public Integrity Section and the FBI began an investigation of the Deputy Administrator.
January 15-17, 1986	OJJDP officials made on-site visit and learned that the program was not on schedule and of a sole source contract with the National Executive Services Corps.
January 17, 1986	Partnership president attempted to fire Partnership's law firm when it was revealed that the board of trustees planned to ask for the president's resignation, which the law firm supported.
January 27, 1986	Third board meeting of the Partnership - an interim chairman was appointed.
January 30, 1986	OJJDP provided assistance to Partnership staff.
February 7, 1986	OJJDP provided on-site assistance.
February 19, 1986	Partnership president tendered his resignation.
February 26, 1986	OJJDP conducted on-site visit and learned that $482,000 of the award had already been obligated.
February 28, 1986	OJJDP Administrator imposed a limited freeze on grant funds.
March 14, 1986	President actually left the Partnership.
March 19, 1986	The Partnership's implementation plan was submitted to OJJDP.

APPENDIX II

April 1, 1986	OJJDP staff learned of Honeywell sole-source contract for ADP equipment and services and approved the Partnership's implementation plan.
April 7, 1986	An acting president of the Partnership was appointed.
April 14, 1986	Board of trustees meeting held and implementation plan adopted.
May 9, 1986	OJJDP staff learned of additional financial improprieties and recommended full audit.
May 16, 1986	OJJDP staff informed the Administrator of resignations among board of trustees.
May 19, 1986	OJJDP directed Partnership to take corrective action relating to financial improprieties, including the forced resignations of three senior Partnership officials.
May 21, 1986	OJJDP's Administrator resigned.
May 28, 1986	OJP and OJJDP conducted a limited financial review.
May 30, 1986	Findings and corrective actions delineated to Partnership.
June 9, 1986	Acting Administrator of OJJDP appointed.
June 13, 1986	Acting Administrator placed program in suspension status.
June 16, 1986	Deputy Administrator of OJJDP resigned.
June 18-19, 1986	OJJDP and OJP conducted a program and financial review.
June 23, 1986	Partnership staff given formal notice that program would formally end on July 31, 1986.

APPENDIX II

July 31, 1986	Partnership submitted final report to OJJDP and program formally ended.
August 1986	Partnership financial officer continued close-out activities.
September 19, 1986	Subcommittee on Human Resources, House Committee on Education and Labor, held hearings on the Partnership grant.
April 14, 1987	OJJDP sent memoranda to the Attorney General assessing the Partnership program.
July 9, 1987	Partnership returned $14,783.81 from its checking account to OJJDP.

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